

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

LATONYA JOHNSON

PLAINTIFF

VS.

CIVIL ACTION NO: 1:21cv062-SA-RP

MCCORMICK TRUCKING, INC.

DEFENDANT

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW, Latonya Johnson, by and through counsel, and files this Complaint against McCormick Trucking, Inc. Plaintiff would respectfully show unto the Court as follows:

I. THE PARTIES

1. Plaintiff Latonya Johnson is an adult resident citizen of Chickasaw County, Mississippi.

2. Defendant McCormick Trucking, Inc. is a corporation registered to do business in Tennessee. Defendant may be served with process by service upon its registered agent for service of process, Robert A. McCormick, 5924 New Nashville Highway, Murfreesboro, Tennessee, 37129.

II. JURISDICTION

3. This Court has federal question jurisdiction for a cause of action arising under the Family and Medical Leave Act.

4. Plaintiff was an employee, and Defendant is an employer within the meaning of the Family and Medical Leave Act.

III. FACTS

5. Plaintiff Latonya Johnson (“Johnson”) was hired to work as a truck driver by Defendant McCormick Trucking, Inc. (“McCormick”) in 2017.

6. McCormick is an employer within the meaning of the Family and Medical Leave Act (“FMLA”).

7. In August 2020, Plaintiff became sick with Covid-19. Plaintiff went to the doctor on August 5, 2020, and was diagnosed with Covid-19.

8. Plaintiff was given a work excuse and told by her physician that she could return to work on September 23, 2020.

9. Plaintiff applied for FMLA.

10. Plaintiff was approved for FMLA leave.

11. Plaintiff returned to work on September 23, 2020. When she returned, she found she had been replaced.

12. Plaintiff contacted McCormick Trucking’s Human Resources department. Plaintiff found out that she had been terminated.

13. Defendant’s Human Resources department informed her that the reason for her termination was that she “had been out for too long.”

IV. COUNT ONE – VIOLATION OF FMLA

14. Defendant was, at all relevant times, an employer within the meaning of the Family Medical Leave Act (“FMLA”) 29 U.S.C. § 2601 *et seq.* Plaintiff was protected by the FMLA.

15. Plaintiff informed Defendant of her illness which required necessary medical leave from Plaintiff’s employment.

16. Defendant terminated Plaintiff’s employment while Plaintiff was on FMLA leave.

17. Defendant failed and refused to allow Plaintiff leave to which she was entitled under the FMLA.

18. Defendant refused to allow Plaintiff to return to work after necessary medical leave.

19. Defendant is liable for violating Plaintiff’s substantive rights under the FMLA.

V. COUNT TWO – FMLA RETALIATION

20. Further, Defendant retaliated against Plaintiff for having taken medical leave to which she was entitled under the FMLA.

21. Plaintiff's termination was in retaliation for Plaintiff's being entitled to medical leave under the FMLA.

22. Defendant is liable for violating Plaintiff's prescriptive rights under the FMLA.

VI. DAMAGES

23. Plaintiff is entitled to compensatory damages from Defendant. Plaintiff is entitled to damages for lost wages and benefits. Plaintiff is entitled to front-pay, or, alternatively, to reinstatement.

24. The employment actions against Plaintiff were willful, such that liquidated damages are warranted.

25. Plaintiff is entitled to an award of reasonable attorneys' fees.

VII. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff Latonya Johnson demands judgment against Defendant McCormick Trucking, Inc. for damages in an amount to be determined by a jury. Plaintiff demands damages for loss of wages, benefits, front-pay, or, alternatively, reinstatement. Plaintiff demands an award of reasonable attorneys' fees.

Plaintiff demands trial by jury. Plaintiff further demands such other and more general relief to which she is entitled. Plaintiff demands trial by jury.

RESPECTFULLY SUBMITTED, this the 30th day of March, 2021.

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